



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>



L.C.
Wm. H. C.

BX
4705
H5 L4

HINCMAR: AN INTRODUCTION TO THE STUDY
OF THE REVOLUTION IN THE ORGAN-
IZATION OF THE CHURCH IN
THE NINTH CENTURY

By

GUY CARLETON LEE

Johns Hopkins University, Baltimore, Md.

A Dissertation Presented to the Board of University Studies of
the Johns Hopkins University for the Degree
of Doctor of Philosophy

[Reprinted from Vol. VIII., of the Papers of the American Society of Church
History.]

The Knickerbocker Press

1897

344



**HINCMAR: AN INTRODUCTION TO THE STUDY
OF THE REVOLUTION IN THE ORGANIZA-
TION OF THE CHURCH OF THE NINTH CEN-
TURY.**

THE
UNIVERSITY OF CALIFORNIA

3. 1975
1975. 1975. 1975.

UNIV. OF
CALIFORNIA

BX
4705
H5 L4



HINCMAR: AN INTRODUCTION TO THE STUDY OF THE REVOLUTION IN THE ORGANIZA- TION OF THE CHURCH IN THE NINTH CEN- TURY.¹

By GUY CARLETON LEE,

Johns Hopkins University, Baltimore, Md.

In a consideration of the ninth century we realize that the Frankish world was bound to the old Roman world by more potent ties than those of memory. As we study the so-called superficial continuations of Roman institutions we discover that they are not dead and worthless relics, but living things. They grow even as we examine them. They strike deep roots into the very heart of Frankish institutions.

In the Frankish nation there was a force peculiarly Teutonic. This wrought upon and changed the very nature of the Roman survivals. So powerful was the detrusion, that tribes and peoples, crushed upon each other, were fused and melted together by the very pressure of their impact. Localism was eliminated by the same power that forced extraneous elements into homogeneity with the Teutonic mass.

From this conflict of forces came a new nation, animated by a new spirit, an entirely new spirit through which the world was to be regenerated—the free spirit which reposes on itself—the absolute self-determination of subjectivity. To this self-involved subjectivity, the corresponding objec-

¹ This monograph is a condensation of a somewhat larger work on the same subject.

[Reprinted from Vol. VIII., American Society of Church History.]

tivity stands opposed as absolutely alien. The distinction or antithesis which is evolved from these principles is that of church and state.¹

The intellectual and political movements of the ninth century were to such a degree the natural and almost necessary expression and accompaniment of the adolescence of a great nation, that a parallel is clearly and easily seen between the intellectual attitude of Paschasius Radbertus and others in connection with the controversies concerning the doctrine of transubstantiation and that movement in which the so-called Pseudo-Isidore is so prominently identified.²

The metamorphosis of a more or less hazy and ambiguous belief in the real presence of Christ in the heart of a believer into a belief in a real presence in the host was a strict counterpart to the transformation of the moral authority of the universal Christian consciousness into a legal institution.³ The indefinite, hazy, and ineffectual was obliged by the philosophy of history to become definite and active. One might have been satisfactory for mystic contemplation, the other was needed for real life work.

Under the iron hand of Charles the Great a Frankish empire was created. A sense of Teutonic nationality found expression. The church, too, grew in strength and influence, yet this growth was not normal; it was, if we may speak biologically, a metabolism in the molecular structure, a metensomatosis by which the very nature of the church was changed. The church of Charles the Great was not so much a Roman as a Frankish church. It had by katabolism become a national church, co-existent with the conception of a distinct political entity.⁴

A feeling of self-sufficiency in the spiritual as well as in the temporal affairs of the nation took possession of the Franks.

¹ Cf. Hegel, *Vorlesungen über die Philosophie der Geschichte*, p. 354.

² Cf. Bunsen, C.C.J., *God in History*, vol. iii., c. viii.

³ Cf. Bunsen, *op. cit.*, p. 475.

⁴ Cf. Caroli Magni, *selecta Capitula ecclesiastica*, apud Labbé, ix., tit. i., cap. i., p. 232. *Ibid.*, c. iii., p. 233. *Headship of King and Queen. Concil. Aquisgr.*, an. 802. Labbé, ix., 265.

The position of the Frankish church was, in the nature of things, abnormal. The development of its individualism had been artificially stimulated. Its growth was, therefore, too rapid for the needs of the times. Withdrawal of stimulus, by the death of Charles the Great, brought arrestment, decay, and an end of self-sufficiency.

The work of Charles was by no means without its permanent influence. Though the detail of his administration did not endure; though his empire was divided, yet the social unity of the Teutonic peoples had been established. This consciousness of social unity found its counterpart in a realization of religious unity.

The ninth century has given to ecclesiastical history two great names. Yes, more—two personalities, whose importance in the development of the appellate jurisdiction of the Papacy and the centralization of church government is unique in their age. These powerful statesmen and learned churchmen were Nicholas, Bishop of Rome,¹ and Hincmar, Metropolitan of Rheims.²

Hincmar was the champion of the national rights of the Gallican church.³ He strove to strengthen and extend the power and authority, whether executive, legislative or judicial, of the metropolitan sees. He maintained that it belonged, of right, to the metropolitans exclusively, to judge, as a court of the first instance, their suffragan bishops; to call provincial synods and to exercise control over the priests and bishops

¹ *Epistles of Nicholas I.* Mansi, *Conc.* xv., Migne, *Patrologia S. Lat.* v., cxiv., p. 769 *et seq.*; v., cxxix., p. 1011, *et seq.*; *Anastasius Vita. Nicol.*

² *Opera omnia juxta editionem Sirmondianam*, 1852, 2 v. (Migne, *Patrol. S. Lat.*, v. 125, 126.)

Duchesne, A., *Hist. Franc. Script.*, v. 2, pp. 414, 456, 475, 484.

D'Achery, J. L., *Spicileg.* v. 3, p. 337.

Bouquet, M., *Rec. Hist. Gaules*, v. 9, p. 254; v. 7, pp. 292, 518; v. 6, p. 252; v. 7, p. 292, 518; v. 9, 254.

Noorden, C. von, *Hinkmar*, Bonn, 1863.

Gess, W. F., *Merkwürdigkeiten aus d. Leben u. d. Schriften Hincmar*, Göttingen, 1806.

³ *Cf.*, *de Jure Metropolitanorum*; Migne, *Patrol. S. Lat.*, v. 125; also Fleury, *Histoire Ecclesiastique*, xi., pp. 331, *et seq.*

of their dioceses, without the intervention or interference, except by law provided, of the Pope.

Such a conception of the rights of the metropolitans led Hincmar to inevitable conflict with the Roman See, for its Bishop, Nicholas I., as the champion of papal rights was bold, aggressive and strong with claims that were bounded by possibilities, not by law.¹

In considering the change in the church constitution that was consummated in the ninth century, we are obliged to study that remarkable set of documents known as the decretals of Pseudo-Isidore. Their effect upon the policy of the Roman See was profound and lasting.

The changes produced by the application of the Pseudo-Isidore to the organization of the church may be segregated thus:

I. Those accentuating the papal headship over a universal church.²

II. Those by which the power of the metropolitan sees was overthrown.³

III. Those by which the suffragan bishops were given greater power and placed in direct connection with Rome.⁴

In discussing the change which occurred in the ninth century in the constitution of the church, it is imperative that we correctly conceive the status of the Papacy at the period in which the change took place. From such knowledge we may deduce the extent of papal jurisdiction over the ecclesi-

¹ "No branch of the papal theocratic monarchy, whether in relation to spiritual matters or not, could unfold itself at any later period, which had not been already contained in the idea of the papacy as apprehended by Nicholas." Neander, *History of the Christian Religion and Church*. Eng. Trans., iii., 361 Cf.; Milman, *Latin Christianity*, Bk. 5, c. 4; Plank, *Geschichte des Papstthums von der Mitte des neunten Jahrhunderts*, an, I, 35-147.

² Consequent on II and III post. Cf., *Capitula Hadriani*, lxxii; Labbé, viii., 606.

³ Agobard, *De privilegio et jure sacerdotii*, c. 1; Agobard, *De dispensatione ecclesiasticarum rerum*, c. xv., Pii I, Ep. 1; Cf. Zephyrini. Ep. 1

⁴ Urbani I, Ep. § 4; Pontiani, Ep. 1.

astics of the Western world with which we are primarily concerned. In a consideration of the papal states four questions immediately arise :

I. The claim of the Roman See to have been established by St. Peter.

II. The assertion that the Roman bishops are the lineal successors of St. Peter.

III. The unbroken sequence of the apostolic succession.

IV. The supremacy of the Roman See.

With the truth or falsity of the three first questions we are not here concerned. They have furnished the basis of arguments that are not yet closed. Yet these three questions are of vital importance to the examination of our subject, because, whatever may be the ultimate decision regarding their truth or falsity, they were in the ninth century believed throughout Western Christendom. They were part of the fundamentals of the Catholic faith. As such they formed a foundation for the aggrandizement of the Roman See, and with this our enquiry is directly concerned.

In considering the fourth, and to us the most important, question, that of the supremacy of the Roman See . . . we may conclude that the admitted supremacy of the Bishop of Rome was not existent in earliest times, and that it was the result of a gradual though uneven development.

In the history of this development, as well as in the history of the Frankish church, the personality of Boniface¹ has left an indelible impress. To Boniface the Papacy owes a debt of gratitude, for he was the servant of Rome and the faithful extender of its propaganda. By direct papal commission as vicar apostolic, by the pallium and by his oath upon the tomb of the apostles he was bound to the Petrine See.²

He reorganized the Austrasian and Neustrian churches.

¹ Cook, *Life of Boniface*, Lond., 1883 ; Hope, *Boniface*, Lond., 1872 ; Fischer, C., *Bonifacius*, Leipzig, 1881 ; Maclear, *Apostles of Western Europe*, Lond., 1869 ; Pfahler, G., *Bonifacius und seine Zeit*, Heilbronn, 1880 ; Werner, A., *Bonifacius d. Apostel d. Deutschen*, Leipzig, 1875.

² Bonif. *Ep. ed. Serarii*, 118.

Under his direction a stream of ecclesiastical legislation issued from the Frankish synods. To him is to be ascribed the reorganization of the metropolitan sees and the foundation of an effective system by which the national independence was conserved at the same time that the Roman power was extended and strengthened.¹

In the reorganization of the Frankish church by Boniface, metropolitans were placed under the immediate authority of the Bishop of Rome. From him as a symbol of their authority they were to receive the pallium. The suffragan bishops were compelled to submit to their metropolitans. It was to be the special duty of the metropolitans to watch over the morality of the bishops in their charge. All cases of great importance or difficulty were to be submitted to the Pope, but not by any complainant or in the first instance. All such cases were to go to Rome through regular channels, that is, through the metropolitans who stood between the Pope and the Bishops.² This is not the appeal of the Bishop but that of the Metropolitan. It was the principle that had been designed for the Patriarchates.

The Bonifacian Constitutions as embodied in the Canons of the first German Council,³ gave to the metropolitans, of whom, let us remember, Boniface was one, that which they had up to this time seemed to lack, that is, a positive legal authority.

¹ Boniface, *Epistolæ et Sermones*, Migne, *Patrol.*, T., 89, pp. 593-801; Jaffé, *Monumenta Moguntina*; *Opera quæ omnia extant omnia*, ed. J. A. Giles, 1844, 2 v. See also, Mai, A., *Auctor classic.*, v. 7; Bouquet, M., *Rec. Hist. Gaules*, v. 5; D'Achery, J. L. *Spicilegium*, v. 1; Mencke, J. B., *Script. rerum German.* v. i.; Jaffé, P., *Biblioth. rerum German.*, v. 3; Pertz, *Mon. Ger. Script.*, v. ii.; Hefele, *Conciliengeschichte*, iii., 458. For Vita, see Migne, *Patrol.*, T. 89, p. 603, and Willibald, *Perts*, ii., 33. See also note 2, p. 235.

² Boniface thus expresses himself: "Sic emin ni fallor, omnes Episcopi debent Metropolitanano, et ipse Romano Pontifici, si quid de corrigendis populis apud eos impossibile est, notum facere; et sic alieni ferit a sanguine animarum perditurum." Cf. Gieseler, ii., 27, n. 7.

³ Mansi, xii., 365. I wish to note that I cite to Mansi or Labbé as they are nearest to my hand. In case of difference between their statements citation will be made to both and variation noted.

This regular system of ecclesiastical gradation by which priest depended upon bishop, bishop upon metropolitan, and metropolitan upon Pope was from the beginning distasteful to the bishops. The fact that the metropolitan did not differ in spiritual function from the bishop, his subordinate, as the bishop did from the priest, his subordinate, tended to weaken the position of the metropolitan. Many of the bishops resented the intervention of the metropolitan in the hierarchical scale. They resisted his authority as an infringement upon their vested rights. The license to which they had become accustomed had brought them to a condition in which direct control by one who could not fail to know of breaches of discipline opened large possibilities of trouble and punishment. But a large number of bishops against whom a charge of immorality and oppression could not be brought were disposed to look upon the plan as an innovation. It was regarded as having no precedent, as an attack upon time-honored custom that had almost acquired a divine sanction.

As this feeling of antagonism gathered force the bishops became ready to take almost any means to rid themselves of the metropolitan control. The surest method was to appeal directly to the Pope, and thus turn the metropolitan out of his position in the carefully graded hierarchy. This possibility was the radical defect in the plan of Boniface. This very defect was to give to the Petrine See an authority undreamed of by Boniface or Gregory.

For a time, however, the plan of Boniface succeeded, for the majority of the clergy were brought to accept it. This success was largely due to the development of the spirit of nationality. The office of metropolitan was closely allied to the national movement. The metropolitan, in a certain sense, stood for national unity. He was a prince of the church, and the church was divided according to race affiliations. A certain patriotism sprang up, which in ecclesiastical affairs centred in the primate, just as in political affairs it centred in the king.

.

As the church gained wealth and power it lost singleness of purpose. It departed from that standard of righteousness set by the early fathers for the church universal. Its greed for temporalities cast it from the high position which was its by right, the position of spiritual monitor of the world. The Popes became the vassals of emperors.¹

With this subordination of the Papacy came a transfer of its claims to supreme appellate jurisdiction. Though no formal act declared this shifting of power, it nevertheless happened that the Bishop of Rome lost such right as he had, either *de facto* or *de jure*, to final decision in ecclesiastical affairs. Charles the Great was the virtual head of the Western church and the actual head of the Frankish church. The Pope became the adviser and not the judge of the Gallican clergy.² With the successors of Charles the Great the dynasty of the Carlings began its downward course. Louis the Mild from the position of the reformer of the clergy³ became the slave of the hierarchy. The church, under the impetus obtained from Charles, threatened to overwhelm the state and to supplant lay officials with ecclesiastics; to replace the aristocracy of birth with an aristocracy of the tonsure. The bishops, and especially the metropolitan bishops, strove to become masters of France. In the end their ambition led to their defeat and humiliation.

The disorders in the Frankish Empire⁴ furnished the Pope an opportunity to advance the power of the Roman See,

¹ Cf. *Astronomius*, c. xxxvii. Einhard, p. 390. Lives of Leo III., Stephen IV., Paschal I., Eugenius II., Gregory IV., Benedict III., in *Anastasius*.

² Appeals lay through the Metropolitan not to the Pope but to the Emperor. *Capit. Francoford.*, A.D. 794, c. 4. "Et si aliquid, quod Episcopus metropolitanus non possit corrigere me pacifare, tunc tandem veneant accustores cum accusato cum litteris metropolitani, ut sciamus veniitatem rei." Cf. Gieseler, *op. cit.* ii., pp. 40, 46. The Emperor presided at Councils. Canons were issued in his name.

³ See Thegan, *Vit. Lud. Pii.*, cc. xiii., xix.; ap. Pertz, v. ii., pp. 594, 595.; Astron. *Vit. Lud. Pii.*, *ibid.* Cf. *Luden. Gesch. d. Deutsch.*, vol. v., p. 581.

⁴ *Annales Bertiniani*, *ad an.*, 830-833. Ap. Pertz., i., p. 423 *et seq.*; Thegan., *Vit. Lud. Pii.*, ap. Pertz, v. ii., pp. 597, 598; *Anom.*, *ibid.*, pp. 631-632. Nithard, *ibid.*, p. 652.

and to lower the authority of the national church. For the strife between the warring factions could not be controlled by Louis, and a demand arose for a supreme arbiter, one removed or thought to be removed from the effect of local or factionary influences. No one but the Pope could be considered. Under the opportunity presented by necessity his character of intermediary and advisor changed, slowly but not the less surely, to that of supreme judge in matters ecclesiastical.

The Pope appeared in France¹ not only to act as peacemaker but kingmaker. At the Field of Lies his word overthrew an emperor, for at his instigation the followers of Lewis deserted him and fled to his rebellious sons and their allied clergy.²

But the Pope as yet hesitated to take the full advantage of his new position. He was unwilling to depose the emperor whom he had defeated. At his hesitancy the disloyal ecclesiastics, says Pascharius Radbertus, showed him certain documents founded on the authority and given in the hand of his predecessors, by which he was completely assured of his ability to depose the emperor.³

Whether through the influence of the documents or for reasons of policy, Gregory declared the emperor deposed.⁴ Lewis was imprisoned.⁵ He was compelled to do public penance for "imaginary crimes."⁶ He was considered by his enemies as an ex-king.

¹ Nithard, *Caroli M. Nepotis Historia*, L. i., § iv.; Bouquet, *op. cit.*, vi., p. 69; Thegan, *Vit. Lud. Pii*, xvi., xvii.; Bouquet, vii., pp. 593-594.

² Thegan, *De Gest. Lud. Pii. Imp.*, 833, § xlii.; Bouquet, *op. cit.*, vi., p. 81, *et seq.*; *Annal. Bertin.* ad. an. 833.

³ It has been thought that the presentation of these documents mentioned by Radbertus, *Vit. Wala*, ii. 16, was the first appearance of the Pseudo-Isidore. This is however pure conjecture. Cf. Greenwood, *Cathedra Petri*, iii., p. 151. Justification of attitude of bishops, Astron. 383, ed. Giuzot. Mansi, xiv., p. 403.

⁴ Fleury, *Histoire Ecclesiastique*, 48, 40. Agobard, Libel, *ap. Mansi*, xiv., p. 652.

⁵ Thegan, 297. Cf. Ep. Caroli, *ad. Nich. ap.*, ad an. 867, *ap. Mansi*, xv.

⁶ Louis made several public penances. These had an important effect. By them he humiliated in his own person the monarchical authority, and elevated

The emperor escaped.¹ His friends rallied to his support.² He regained his empire.³ He punished the rebels.⁴ Despite his successes Lewis did not venture to set aside the authority of the church, or to seriously question the competency of the acts by which he had been deposed. On the contrary, he sought absolution from the censure of the church, and acknowledged the legality of the process by which he had been deprived of the empire which he had so hardly regained. This course had the inevitable result of elevating the Church above the State; of fostering the imperial spirit which now animated the Bishop of Rome.

Ebbo, Archbishop of Rheims,⁵ had been a leading spirit in the rebellion against Lewis. To Ebbo the emperor had been given in charge at his deposition. When Lewis was liberated Ebbo fled,⁶ with much of the treasure belonging to his Archbishopric, to the Normans.⁷ He was captured.⁸ Lewis charged him with his crimes.

Ebbo requested to be tried in the absence of the emperor, and his request was granted.⁹ He chose as his judges those bishops to whom he had confessed his fault. He was not to appeal from their decision.¹⁰ They declared against him and advised his deposition. Another council was held at Thion-

that of the church before which he abased himself; he gave incentive to dispute the commands of a power which accused itself. He published his humiliation to the world. See Capit. of Attigny, "Confitemur nos in pluribus locis . . . tam in vita quam in doctrina et ministerio neglegentes exstitisse."

¹ *Ann. Bertin.* ad an. 834.

² *Astron.*, 394.

³ *Thegan.*, p. 396. *Mansi*, xiv., 658.

⁴ *Ann. Bertin.* ad an. 834.

⁵ Ebbo, 775-851. *Apologeticum*. D'Achery, J. L., *Spicilegium*, iii., p. 335. *Confessio*; *Apologeticum*, *Narratio depositionis*, *Pematica*; *apud* Migne, *Patrol. S. Lat.*, v. 116, p. 9. See also Bouquet, vii., 277. Duchesne, ii., 34. Migne, *Ibid.*, p. 17.

⁶ Migne, *Ibid.*, p. 17.

⁷ For his subsequent career see Flodoard, *op. cit.*, ii., 20.

⁸ *Mansi*, xv., 793.

⁹ Flodoard, Bouquet, vi., 214 C. D.

¹⁰ In accordance with the African Synod of 407 A.D.

¹¹ African Synod 407 A.D.

ville,¹ and this upon Ebbo's written confession and abandonment of his see² deposed him.³

Ebbo was favored by the successor of Lewis, Lothair.⁴

In 840, at a pseudo-synod⁵ called by Lothair to Ingelheim, a decree was published⁶ which purported to restore Ebbo.⁷ Lothair having temporarily conquered Rheims, Ebbo was reinstated.⁸ He was soon ejected, for Charles the Bald regained the city. While *de facto* Archbishop—840–841—Ebbo ordained Wulfadus and certain other persons as clerks. This seemingly unimportant though illegal act was destined to have serious consequences.

In 845 Hincmar had become the most powerful ecclesiastic in France.⁹ He was one of the palace clergy¹⁰ and the confidential adviser of Charles the Bald. He was appointed by Charles to the archbishopric of Rheims,¹¹ and was consecrated

¹ Thegan, Bouquet, vii., 85A.

² Hincmar, *de Prad.*, Ed. Sirmondi; Migne, *Patrol. S. Lat.*, T. 127; Mansi, xv., 796. *Annal. Bertin.* ad an. 834; Flodoard, *op.* Bouquet, vi., 215.

³ Mansi, xv., 796; Bouquet, vi., 251 *et seq.*

⁴ Lothair, 795–855. *Capitularia*, Migne, *Patrol. S. Lat.*, T. 97, p. 371. *Constitutiones*, Bouquet, vi., 265, 405. *Diplomata*, *ibid.*, viii., 365. *Epistolæ ad Leonem IV. Papam*, *ibid.*, vii., pp. 307–318, 565. Agobard, *Chartula ad Lotharium Augustum*, Migne, *Patrol. S. Lat.*, T. 104, p. 319. *Excerpta ex Vit. Sanc. de Lothario, Imp.* Bouquet, vii., 323.

⁵ No legal synod was ever held to restore Ebbo, neither was the case ever considered during his lifetime. Hincmar, *Ep. ad Nichol. Papam*, Mansi, xv., 777; Migne, *Patrol. S. Lat.*, T., 126; Flodoard, iii., 2.

⁶ Edict for restoration of Ebbo published by Lothair at Ingelheim, June 24, 840. Mansi, xiv., 773; *cf.* Flodoard, iii., 20.

⁷ Bouquet, vi., 254; vii., 281; D'Achery, *Spicileg.*, vii., 175. Ebbo was never legally restored to the episcopate. For his appeal see Hincmar, *de Prad.*, c. 36, p. 326.

⁸ On his return to Rheims, Ebbo caused Lothair's decree to be read publicly in the church, and also made it known to bishops and other important persons. He also read and promulgated a confession of his guilt. See Hincmar, *de Prad.*

⁹ For early life of Hincmar see Flodoard, iii., 1.

¹⁰ Migne, *Encycl. Théol. Discipline*, i. *Cf.* iii., 1. *Cf.* Hincmar, Migne, *Patrol. S. Lat.*, T. 126, c. 99–101, for a definition of the position of the palace clergy.

¹¹ Fleury, *op. cit.*, 47: 28; Flodoard, iii., 10.

May 3, 845.¹ Pope Leo, at the suggestion of the Emperor Lothair,² gave Hincmar the great honor of the extraordinary pallium.³ If Ebbo was lawfully deposed, Hincmar was in an impregnable position; if not, it was hardly tenable. This question was soon to arise.

At the Treaty of Verdun⁴ the progress of civil and ecclesiastical imperialism received a check. By the division of the Empire at Verdun, Charles the Bald and Louis the German found themselves at the heads of kingdoms in which a certain amount of homogeneity existed. The attenuated empire of Lothair was neither homogeneous nor powerful.

Hincmar felt himself to be at the head of a national church, with the duty of maintaining the dignity and power of his office. Although the national church was more of a reality than the nation in its civil aspect, although the civil unity was sustained by the ecclesiastical unity, and through the aid of the spiritual organization the king controlled the minds of his lay vassals, yet the national church was not stable; it had inherent weakness. It was doomed to overthrow.

It was Hincmar's fate to lead a lost cause. The church had become an imperial, a universal power, from its very nature intolerant of national distinctions, and it rejected the constitution of Boniface. A metropolitan, in the middle of the ninth century, attempting to carry out the traditional duties of his office, was, from the first, destined to meet defeat. The decretals of Pseudo-Isidore were already in circulation, even if they had not come to the knowledge of the highest authority of the church.

¹ *Exc. ex Hermanni Contracti Chron.* ad an. 844; Bouquet, vii., 232; *Ex brevi Chronico Remensi ap.*, Labbé, i., 359; Bouquet, vii., 271.

² *Epis. Lotharii ad Leonem IV Papam; Pro usu Pallii, etc.*, Bouquet, vii., 565.

³ *Pallium quotidianum*, Flodoard, iii., 10.

⁴ *Annal. Bertin.*, ad an. 843. Cf. *Rerum Gallicarum et Francicarum Scriptores*, vii.

⁵ Charles I. (le chauve), King of France, 823-877. *Capitularia; Epistola*; Bouquet, vii., 552, 560, 598. *Diplomata, ibid.*, vi. *Ex Epistola de Ebbonis archiepiscopi Remensis depositione*,—*apud* Bouquet, vi., 254.

Hincmar, learning of the ordinations made by Ebbo while acting as bishop under the Ingelheim edict, suspended Wulfadus and the clerks.¹ They appealed² to a synod³ held at Soissons in 853.⁴

The clerks had several available lines of defense. They could not only set forth their good faith in receiving orders, but could advance Ebbo's authority to give them, basing their authority on the Ingelheim pseudo-synod and the edict of Lothair reinstating Ebbo. Yet these defenses were not advanced. They based their case upon what seems to have been the Pseudo-Isidore. They claimed that the deposition of Ebbo was illegal, because before trial Ebbo had not been restored to the full enjoyment of his rights and privileges.⁵ This was the "*exceptio spoli*"⁶ of the Pseudo-Isidore. Further, that the council deposing Ebbo was illegal because papal legates were not present.⁷ These two principles are new. They do not belong to the body of the Canon Law as then received and accepted. They are characteristic of the Pseudo-Isidore. It is indeed at this moment when the change in the church constitution takes tangible form.

The Synod of Soissons, 853,⁸ declared the deposition of

¹ Hincmar did not depose the clerks. It was the action of the synod. Mansi, xiv., 985. *Annal. Bertin.*, ad an. 853.

² Bouquet, vii., 277 *et seq.* Mansi, xiv., 987 *et seq.*

³ Hincmar, *Epis.*, iii.; Migne, *Patrol. S. Lat.*, T. 126.

⁴ Mansi, xiv., 985; Migne, *Encycl. Théol.*, xiv., 894; Bouquet, vii., 277, *et seq.*

⁵ See note on *exceptio spoli*, post.

⁶ Cf. Ep. ii. of Zephyrinus.

⁷ See page 244 and note.

⁸ For transactions of this synod and their consequences, in regard to Wulfadus *et al.*, see *Epistles of Hincmar to Popes Nicholas and Benedict*, Migne, *Patrol. S. Lat.*, T. 126. Cf. Flodoard, iii., Mansi, xiv., 977, *et seq.* See also Du Pin whose realistic but possibly prejudiced account is worth reading (Du Pin, *H. E.*, IX. Cent. ch. 4). The decision of the Synod, after the report of the Council of Thionville and an account of the action of Sergius in the matter had been read, was, that Ebbo had not been properly restored and had no right to ordain. This was additional support to the position of Hincmar. It is surprising that no mention was made at Soissons of the acts of the Council of Bourges, which would have been so much to the point.

Ebbo canonical and his acts while officiating as bishop after the Ingelheim edict illegal. It ruled that Ebbo was no longer a bishop when he returned to Rheims, and he could not confer the grace of orders as he did not himself possess them.

The clerks then produced a document purporting to be the signed opinion of several bishops that Ebbo's restitution was canonical.¹ Unfortunately for the clerks six of the nine bishops whose names were appended to the declaration were present at the synod of Soissons. They at once declared both document and signatures to be forgeries. The case of the clerks was ruined. They were not only deposed but excommunicated. The clerks appealed to Rome. Hincmar sought the papal confirmation of the synodical decrees. Leo delayed approval, and replied to the request of Hincmar that he hesitated to confirm the decrees for several important reasons,² which may be briefly stated thus:

I. That Papal legates had not been presented at Soissons.

II. That the report of the council had not been properly sent to Rome.

III. That the imperial order for the council had not been sent to Rome with the papers of the synod.

IV. That the clerks had appealed to the Holy See.³

In these illogical reasons, which are not based upon precedent, there is at least an intimation of a new order of things. A mere cursory examination demonstrates the fallacy of the reasoning which appears to have prompted them. For example: what had an imperial order to do with a council held under the authority of Charles the Bald? Why should papal legates have been required at the council? Such legates were not usually present, nor is there a precedent for their attendance being required at Soissons. Again, inferior clergy had never possessed the right of appeal to Rome; by what right did they now appeal?

¹ This paper had already been published by Ebbo in his Apology. Mansi, xvi., 775; Flodoard, ii., 26; D'Achery, vii.; Bouquet, vii., 281.

² Mansi, xv., 746.

³ For *Epistles and Decretals of Leo*, see Migne, *Patrol. S. Lat.*, T. 125, 129.

The claims of the Pope plainly indicate a new force at work in the church organization. The reasons given by the Pope seem intended to serve a double purpose: first, to conceal the real reason for refusal, the opposition of the Emperor Lothair,¹ and, second, to advance the claims of the See of Rome to supremacy over all ecclesiastical matters.²

Leo died without ratifying the decrees of the Soissons Synod of 853. The new Pope, Benedict III.,³ not only confirmed them⁴ but commended the course taken by Hincmar as showing zeal for the welfare of the church. Not only was the validity of Hincmar's title to the office of Archbishop seemingly settled for all time, but the Pope decreed that no one canonically subject to the see of Rheims should presume to appeal to any other tribunal, "as is conformable to the traditions of the Fathers and the Canons of the church, always excepting the rights of the Bishop of Rome."

To what traditions and canons did Benedict refer, and what did he mean by this clause? Shall we conclude, as Nicholas did years after, that the words signified that Rome might at any time interfere and reverse a judgment given in the Archbishopric of Rheims, although that judgment had been confirmed by herself; or did Benedict mean what Flodoardus⁵ asserts in the words: "That pontiff conferred on the same Hincmar the authority of the Apostle Peter and of the Holy Apostolic See, a privilege making it so that no subject of Rheims might with impunity have recourse to, or subject himself to, any authority other than his own."

¹ Mansi, xiv., 746.

² The question naturally arises whether the reasons ascribed to Leo are based on the Pseudo-Isidore. It seems more probable that the true reason for the refusal of Leo to approve the action of the Synod of Soissons (853) was the opposition of the Emperor, and that the reasons in text would seem to have been put into Leo's mouth by Nicholas, and were not advanced by Leo.

³ Benedict III., Pope, *Vita*. Migne, *Patrol. S. Lat.*, T. 115. *Notitia historica*; *Epistola*; *Diploma*, *ibid.* *Supplementum ad Diplomata*, *ibid.* T. 113.

⁴ The Pope in his confirmation used a phrase that afterwards caused difficulty and was used against Hincmar by Nicholas I.—"Si ita est ut scriptis," etc.—the real meaning of which could hardly be more than, "upon such grounds." Nicholas, however, gave it a strictly conditional turn. ⁵ Flodoard, iii., 11.

The meaning of Benedict was somewhere between these extreme views of partisans. It was a condemnation of Ebbo's pretended restoration and the appeal of the clerks to Rome as well as a confirmation of Hincmar's position as Archbishop and Metropolitan, and the Bonifacian system of appeals.

Benedict's successor, Nicholas I., promptly approved his action and for himself confirmed Hincmar's privileges.

The relations between the new Pope and Hincmar, though they began so pleasantly, were destined to become strained. The personalities of the two men accentuated the claims of their official positions. With the pontificate of Nicholas came the beginning of the end of the power of the Metropolitanate. This process is illustrated by a series of controversies between Nicholas and Hincmar growing out of a series of cases that may be called leading cases in Catholic Canonical Law.

The leading cases on the subject of the extension of the jurisdiction and supremacy of the Roman See at this period are those of Wulfadus and other clerks, of Rothadus and of Hincmar of Laon. In these cases, and particularly in the first two, the matter of the deposition of Ebbo, and consequently the question of the validity of Hincmar's title to the Archbishopric of Rheims are the real though hidden questions by which the Pope wished to force a conclusion favorable to the Roman See.

The case of Wulfadus and the other clerks ordained by Ebbo may for the present be set to one side for the confirmation of the acts of the synod of Soissons by Benedict, and the approval by Nicholas temporarily suspended proceedings.

Hincmar ruled his diocese with an iron hand and brooked no opposition. His course was justified by the needs of the times as long as he followed the law or, in the absence of express legislation, did not exceed the general authority of his office. The clergy of all grades needed reformation. The looseness of the times affected the clerks as well as the laity. Hincmar strove to correct the current abuses and to preserve canonical order and discipline. His course was

opposed by many of his suffragans, for they accepted only too gladly the dictum of Nicholas that there was but one grade of bishops, and argued accordingly that the metropolitan was on a parity with suffragan bishops and could not dictate to them. The antagonism of the provincial bishops found expression in the case of Rothadus.¹ Rothadus, Bishop of Soissons, was charged by Hincmar, his metropolitan, with having unjustly deposed² a priest of his diocese and refusing to restore him on command of his superior Hincmar, with having refused to remove the priest whom he had installed in the place of him whom he had deposed. This was not all the accusation; Rothadus was further charged with squandering the church revenues, pawning a golden chalice belonging to his church, and selling vessels and ornaments of his church without the consent of either the metropolitan or the bishops of the province or even the steward and clergy of his own church.³ It was further charged that Rothadus had not lived in a manner becoming to a bishop.⁴

Rothadus had good reason to suspect that the judgment

¹ Some authorities for the case of Rothadus: Ep. Nicholas Nos. 28-44, *op. Mansi*, xv.; Ep. Hincmar, Migne, *Patrol. S. Lat.*, T. 125, 126. Flodoardus, *op. cit.* iii., 13. Annales Bertiniani, ad an. 862 *et seq.* Libellus Rothadus, Mansi, xv., 681. Consult Fleury, i., cc. 21, 27, 36, 37. Du Pin., *H. E.*, IX. Cent. Baxman, *Die Politik der Päpste*, ii., 25 *et seq.* Gfrörer, *Church History*, iii., 1001 *et seq.* Natalis Alexander, *Historia Ecclesiastica*; Bingen, 1787, xii., 368 *et seq.* Neander, *Church History*, Am. Ed., iii., 358, 361. Gieseler, *op. cit.*, ii., 109, 127, Am. Ed. Milman, *Latin Christianity*, bk. v., c. 4. Greenwood, *Cathedra Petri*, iii., 252-268. Guizot, *History of Civilisation in France*, Bohn's edition, iii., 344 ff. Von Noorden, *Hincmar, Erzbischof von Rheims*: Bonn, 1863. Langen, *Geschichte der römischen Kirchen von Nicholas bis Gregor*, vii., 1892.

² See, Hefele, *Conciliengeschichte*, iv., 245.

³ This was contrary to the Carthaginian Canon. Cf. Hefele, *op. cit.*, i., p. 413.

⁴ Back of these accusations was the determination on Hincmar's part to bring his unruly suffragan into obedience. He had already sent him numerous warnings. But the Bishop of Soissons seems to have been too fully imbued with the spirit of the new order of things to obey his metropolitan. Flodoardus mentions a number of warnings which Hincmar had written him. See *op. cit.* iii., 21.

of the council would be against him, and to escape it he appealed to Rome.¹

This appeal was not only irregular but uncanonical. A case once before a provincial synod should have been settled by it, unless it was removed from it for cause, by mandate from a superior tribunal having jurisdiction. A stay and change of venue was inadmissible, and a stay and appeal was canonically impossible at this stage of the proceedings.²

It is true that the Sardican canons allowed an appeal to Rome but not until the bishop had been deposed. Then, and then only, would an appeal lay. Even when an appeal could be taken the case was not given to Rome without important reservations: The Pope was not in person to hear the appellant, nor could the parties be cited to Rome. The case was to be remanded to the Province from which it had come up. Then a new court was to assemble under the presidency of papal legates and the bishop was to be tried *de novo*.

It was upon this ground that Hincmar combated the appeal. He contended that, as the judicial affairs of the church were no longer under the control of the state, and as the Emperor was no longer the ultimate judge of ecclesiastical affairs, the Sardican canons, as they had never been suspended, were in full force, and that the procedure laid down by them was to be followed in all ecclesiastical cases to which they applied.

Pending trial and judgment Rothadus was deprived of his episcopal communion.³ This action was in harmony with the canon of Carthage.⁴ Rothadus seemingly regarded his deprivation lightly. His conduct continued to excite complaint.⁵ Hincmar therefore decided to press the

¹ Text of appeal *apud* Baronius, ad an. 863.

² It was on this principle that Hincmar took his stand. His position was supported by strong precedents; for example, the case of the Vicariate of Arles, Cf. Gieseler, *op. cit.*, i., 391. Zosimus, i. *Ep.* i. ad *Eps.* Galliae.

³ *Annal. Bertin.*, ad an. 861. *Episcopale privat communione*, etc.

⁴ *Can.* 10. Coun., Carthage, A.D. 401. Cf. Phillips, *Kirchenrecht*, ii., 276.

⁵ *Ann. Bertin.*, ad an. 862.

case. A council was summoned to Soissons to take action in the matter of the charges against Rothadus.

In 862 a council, upon the citation of the King, was held at the Church of St. Methard, that of Rothadus, at Soissons. Here, notwithstanding his appeal to Rome, Rothadus was tried, convicted, deposed, and condemned to imprisonment in a monastery.¹ The sentence was carried out and another bishop ruled in the see of Rothadus.

Nicholas seized the opportunity given him by the appeal of Rothadus to advance the jurisdiction of Rome. He ordered Hincmar to restore Rothadus to his temporal and spiritual rights,² to send him to Rome, and also to send a legate to represent himself. In other words, he ordered the parties when placed in *status quo ante* to appear at Rome and retry the case.

Hincmar seems to have paid little attention to this letter.³ On the contrary, he wrote to Nicholas asking his confirmation of the action of the council that had condemned Rothadus.

Nicholas, upon seeing his mandate disregarded, was violently enraged. He repeated in no gentle terms his order for the reinstatement of Rothadus and called on Charles the Bald to help him. Neither Charles nor Hincmar moved in the matter.⁴

Rothadus was imprisoned for two years. His friends were the enemies of Hincmar, and this common enmity rendered them steadfast. By their efforts and a turn in political affairs Rothadus was released and obtained permission to go to Rome. Before leaving France he sought to strengthen his position there, and for that purpose wrote letters to several friendly bishops, members of the Soisson Council of

¹ Cf. Migne, Dic. des Concil, ii., 850, in *Encycl. Théol.*; *Vita Nic. I. Pap. Anastasius*, Bouquet, vii., 328.

² This demand conforms to Gail P. *Ep. ad. Felicene*, Mansi, i., 1231; *Zephyrini*, *Ep. ii.*, Mansi, i., 732; *Stephani I.*, *Ep. ii.*, Mansi, i., p. 889.

³ It is an open question whether or not it reached him before the council was held at Soissons, 862.

⁴ Hincmar went so far as to refuse to read the Pope's letters to the synod or to transmit them to the King.

862, entreating their good offices, and furnishing them with what Rothadus believed to be the strong points of his case.

Hincmar was determined to prevent Rothadus from going to Rome. He learned of the letters written to the bishops. He seized the messenger and secured the undelivered epistles. By a perversion of their contents Hincmar declared they were not, as on their face they seemed, and in fact were, a plea for aid. Hincmar, in the most arbitrary manner, pronounced the letters to be a distinct withdrawal of the appeal Rothadus had made to Rome,¹ and further decided that they constituted a selection by Rothadus of the bishops to whom they were addressed as a court of provincial bishops to try his case.

Arguing from this standpoint Hincmar declared Rothadus to have, as Ebbo had done, selected his own judges and that he could not appeal from the self-selected tribunal.

Rothadus protested against this high-handed action of Hincmar. He denied the correctness of the construction put on his letters. He continued to appeal to Rome. Hincmar insisted on a trial before the bishops to whom Rothadus had written. The opposition of Rothadus availed him little, for the astute and wily metropolitan won over the disaffected bishops and gained control of those to whom the letters had been addressed.

The triumph of Hincmar was only a temporary one. The opposition gathered force and again obtained permission for Rothadus to go to Rome; but he was not, however, relieved from ecclesiastical censure or restored to his episcopal honors or to his temporalities. A committee of the Provincial Council was nominated to accompany Rothadus to Rome. For some cause not clearly explained, yet strongly hinted to be owing to an understanding between Lothair and Nicholas,² the deputies of the council were detained at the Italian frontier.³

Rothadus, however, made his way to Rome; and the Pope, after a delay of several months in the absence of

¹ See opinion of Nicholas, *Ep.* xlii., Mansi, xv., 639.

² *Annal. Bertin.*, ad an. 864.

³ *Ibid.*, 864; *Natalis. Alexand.*, xii., 375.

prosecutors as required, though uncanonically, by him, on Christmas day¹ declared the restoration of Rothadus to the episcopate and ordered his reinstatement to the honors and temporalities of his former see.

In the sermon delivered when this declaration was made Nicholas asserted that, according to the decretals of his predecessors, a bishop might not be deposed without the consent of the Roman pontiff, and a council could not be called to take any such action without papal authority.² The Pope was determined to enforce his decision. Arsenius, Bishop of Orta, the papal legate resident at the court of Charles the Bald, was directed to execute the decree.³ The prelates of the province of Rheims were ordered, under penalty of excommunication, to receive "the guiltless and injured prelate" into their communion. They were given the option, however, of reviving the proceedings before the pontifical court. The first step in such case must be the placing of Rothadus in the same position spiritually and temporally as he occupied before the late proceedings.

The case of Rothadus afforded a new point of attack against the power of the metropolitan sees. In 862 Nicholas had humbled the two greatest prelates of Germany, Thietgard of Triers and Gunther of Cologne, despite their assertion of co-equal rights with him, and their declaration that a Pope was no greater than a bishop.⁴ The defeated and degraded Archbishops were made to feel their position of subordination to the Papacy.

In 862 John, Archbishop of Ravenna, denied the right of the Pope to interfere with diocesan affairs, and defied Nicholas. But John, though he appealed to the Emperor, was forced to implore mercy of Nicholas and to place his see in full submission to Rome.⁵

¹ *Vita Pap. Nic. I. Anast.*, Bouquet, vii., 328.

² Mansi, xv.; *Vita Pap., Nic. I.*, Bouquet, vii., 328.

³ *Annal. Bertin.*, ad an. 865.

⁴ *Annal. Bertin.*, ad an. 862.

⁵ *Anast., Vita Nic.*, cited; Aquello, *Liber pontificalis sive vitæ pontificum Ravennatum, cum appendice*, Migne, *Patrol. S. Lat.*, T. 106, 431. Pertz, *Monumenta; Script. rer. Langobard.*, 6-9, 265.

These cases were the outcome of the definite policy by which Nicholas strove to raise the power of the Papal chair and to weaken or crush all opposition to Roman supremacy.

The defeat of the great Archbishops of Cologne, Treves, and Ravenna gave strength to the papal position. It removed obstructions, it prevented opposition. It gave the advantage to the Pope in his struggle with the greatest prelate of the Western Church, Hincmar of Rheims.

The attitude of Nicholas had been aggressive before Rothadus visited Rome, but there seemed no legal basis for papal claims.¹ With the visit of Rothadus a new foundation is given to the arguments of Nicholas. This is furnished by the decretals of Pseudo-Isidore. The first official recognition of these decretals was given in the sermon² by which Nicholas proclaimed the restoration of Rothadus. From that time forward their influence was paramount in the policy of the Pope, and this because they gave just that legal support which the claims of the Petrine See had hitherto lacked. They supported the assertions of Nicholas that a bishop could not be legally tried by a provincial synod, that an appeal once made to Rome could not be withdrawn, that the affairs concerning bishops were always the *causæ majores*, and that of these the Pope had exclusive jurisdiction.

Nicholas based these claims on the Pseudo-Isidore. He declared them to rest on decretals of the pontiffs of the Roman Church.³ These decretals were declared to be authoritative and as such must be obeyed by the bishops. "Indeed to even doubt them was to sin."

The natural objection of provincial authorities to these newly discovered and unauthenticated decretals was foreseen by the Pope, and he anticipated it by the statement that to say the decretals were unknown, was no proof of their in-

¹ Cf. the letters of N. to Rudolf of Bourges (Mansi, xv., 382 and 389) belonging to the year 864. In the latter he lays down a principle destructive of all rights of metropolitans: "primates enim, vel patriarchas, nihil privilegii habere præ ceteris episcopis," etc.

² Note 2, p. 251, *ante*.

³ First quotation of the *Decretals* by Nicholas was in 865. *Nich. Pap. Epis. ad universos episcopos Gallia*, ad an. 865. Mansi, xv., 694 *et seq.*

validity, for local archives did not and could not contain all the records of the church, and the decretals had long been preserved in the Roman Archives.¹ This was false on its face, but it served its purpose.

Having fortified his position, Nicholas sought to execute his decree reinstating Rothadus. Charles the Bald was directed to make plenary restitution to Rothadus, and this of the government as well as the temporal patrimony of Soissons.

On failure to do this, the king and all those who advised, aided, or abetted him were threatened with "the penalty of exclusion from the sacred mysteries and services of the church and expulsion from the communion of the faithful as profane persons and robbers."²

The same commands were given to Hincmar, but in terms that were even more insolent than used to the king. Even the justness of the cause of Rothadus would not have justified the arrogance of Nicholas. Stripped of epithet and verbiage the orders to Hincmar directed him to make instant and plenary satisfaction to "the injured and persecuted bishop" or to appear in person at Rome. Hesitation or delay in adopting and following one or the other of these courses was to draw down on the offender suspension from all sacerdotal or episcopal functions. Hincmar neither went to Rome, though he wrote in defense of his course, nor reinstated Rothadus.

Hincmar denied his power to reinstate Rothadus, denied the right of the Bishop of Rome to interfere in the cause, and left the responsibility of reinstating Rothadus to Nicholas.

Despite the refusal of Hincmar and the bishops of the province of Rheims to reinstate and receive Rothadus, "the condemned malefactor," Nicholas arbitrarily did so, and thus without canonical acquittal or condonation.³

¹ Mansi, xv., 695: "decretales epistolæ Romanorum pontificum sunt recipiendæ etiamsi non sunt canonum codici compaginatæ."

² *Ep. Nich. I. Pap. ad. Car.*, Bouquet, vii., 405.

³ *S. C. Vita Nich. I. Pap.*, Bouquet, vii., 328. Of this act Hincmar said: "Thus was a criminal solemnly deposed by the unanimous judgment of five provinces of this realm, reinstated by the Pope, not by ordinary canonical rule, but by an extraordinary act of power, in a summary way, without inquiry, and against the consent of his natural judges."

The results of the Rothadus affair were, in the main, two: first, that every case involving a bishop was a major case, and as such was to be referred to Rome; and secondly, that a new kind of appeal "evocatio" was allowed. As to the former, its connection with the hierarchical tendency of the Church was reason enough to expect such a change sooner or later. As to the latter, a new legal code could alone establish it. The Pseudo-Isidore provides for it in several passages, the clearest being, no doubt, that in the epistle attributed to Felix II.¹

The case of Wulfadus and the other clerks ordained by Ebbo after his deposition had for some years seemed settled, but it was now to be reopened. Nicholas saw the effect of a decision favorable to the clerks upon the position of his opponent Hincmar. He could not fail to see the applicability of the Pseudo-Isidore to the case of Ebbo, and the power these decretals placed in his hands.²

Nicholas wished to reopen the case of Wulfadus because he believed himself able to obtain a judgment favorable to those ordained by Ebbo. Such a decision would be a virtual acknowledgment by the Gallican Church of the Pseudo-Isidore, for the case of the clerks rested upon its principles, and would also be a denial of the right of Hincmar to the metropolitanate of Rheims.³

Nicholas ordered Hincmar either to restore the clerks or to open their case *de novo* at a synod. This command placed

¹ Ep. i., Canon 16: "Nam in sæcularibus legibus, post quam vocatus quis venerit et in foro decertare cœperit, non licet ei ante peractam causam recedere, in ecclesiasticis vero dicta causa recedere licet, si necesse fuerit aut si se prægravari viderit. . . . si quis autem judicem adversum sibi senserit, vocem appellationis exhibeat, quam nulli oportet negari."

² This applicability of the decretals of Pseudo-Isidore to the case of Ebbo has given rise to a strongly sustained hypothesis that Ebbo was the sole or principal collector and fabricator of the Pseudo-Isidore, at least in so far as they concern the trials of bishops. Cf. V. Noorden, *Hincmar*, p. 25 *et seq.*

³ It should be noted that the claims of Nicholas and his attempt to reopen the case of Ebbo was unsupported by precedent. The current of law from Sardica down had given competent jurisdiction to local synods. Unless the decree of the synod was appealed from (and this was not the case here), it stood valid against the world. Cf. Greenwood, *op. cit.*, iii., 272.

Hincmar in a trilemma. He dreaded the synod, for he fathomed the Pope's designs against him. On the other hand he could not restore the clerks, for such an act would be an acknowledgment that Ebbo's deposition was illegal or his restoration legal, and this would cloud Hincmar's own episcopal title. Should he decline to restore the clerks or to reopen the case before a council at the order of the Pope, he would come in direct conflict with the papal authority as defined by Pseudo-Isidore. Hincmar was unable to expose the flaws in the new decretals. He was in no position to defy them.¹ As the least of the three evils the synod was chosen.² Here the ability to manage men, that distinguished this greatest of the politicians of the Gallican Church, might help his cause. It did. Hincmar convinced the council :

I. That he could not canonically restore the clerks, for a council, and not he, had deposed them, and further, as two Popes had confirmed the proceedings of the council that did so, the matter was no longer within the jurisdiction of the Metropolitan of Rheims.

II. That the council had not met to consider the deposition of Ebbo, as some pretended, but the case of Wulfadus.

Though in this Hincmar was technically correct, yet the deposition of Ebbo was the real point in controversy, not only because Nicholas wished it to be so, but because the case of Wulfadus was dependent upon the validity of Ebbo's title to the archbishopric at the time the clerks were ordained. By accepting Hincmar's opinion the council escaped the discussion of the unpleasant claims of the Pseudo-Isidore.

III. That there was no legal ground upon which he or the council could restore the clerks, but as the Pope was so

¹ The epistle of Leo to the bishops of Campania (Ep. v.) provided for the reception of all previous epistles and decretals: "omnia decretalia constituta, tam beatæ recordationis Innocentii quam omnium decessorum nostrorum quæ de ecclesiasticis ordinibus et canonum promulgata sunt disciplinis, ita vestram dilectionem custodire debere mandamus." As a matter of fact the decretal of Gelasius, de libris recipiendis, not included in the current legal code, was received. Cf. Credner, *Zur Geschichte des Kanons*, 151 ff.

² Mansi, xv., 712.

much interested in Wulfadus that he should restore him of his own authority, after the example of the Militian schism in Egypt at the time of the Nicene Council, provided that it was not done to the disadvantage of any member of the synod.¹

The decisions of the synod did not please Nicholas. He was unable, however, to attack them on legal grounds, and so he endeavored to carry his point by questioning the legal competency of the council in which the clerks had been originally deposed. He alleged that council to be *ab initio* illegal because no papal legates were present; that even if it were legal, that its decrees had never been legally confirmed. He accused Hincmar of fraudulently securing such papal confirmation as had been given, and therefore the confirmation was of no effect.²

Nicholas allowed Hincmar one year in which to prove the legality of the council and of its action in the case of Wulfadus and the other clerks. He ordered, as in the case of Rothadus, that *pendente lite* the clerks should be restored to their places.³

Nicholas resented the insinuation of the council that the Pope might, as a matter of favor, restore the clerks. The right of restoration was, he said, a right which belonged to the Roman See, and was not dependent upon the resolutions of councils. Then he declared that the contumacy of the Gallican church, and more particularly Hincmar and his supporters in opposing the papal claims, meant that neither Ebbo, Wulfadus, nor the clerks had been lawfully deposed.⁴

Hincmar replied to Nicholas in a long and carefully written epistle. He met the allegations of the discomfited pontiff by citations from the known and accepted Hadriano-

¹ *Annal. Bertin.*, ad an. 866.

² See p. 245, *supra*.

³ Here, as in the case of Rothadus, and of Hincmar of Laon, was a direct reference to the *exceptio spoli* of Pseudo-Isidore. The following sentence used by Nicholas is quoted from the Pseudo-Damasius: "Non enim enemis cum annato vite conflictum mire potuit." The demand that the clerks should be reinstated before any action began is based upon *Ep. Zephr.* in Pseudo-Isidore.

⁴ Mansi, xv., 738.

Dionysian Code. He argued that the quotations from the Pseudo-Alexander, used by the Pope, did not apply to the case, as the confession of Ebbo had not been extorted by force, fraud, or fear.¹

Nicholas was determined to crush Hincmar. Though the Council of Soissons (866) had been called by the Pope, its findings, not being satisfactory to him, were rejected. The papal party put forward its utmost efforts during the year following; it strove to win the Gallican prelates, and to strengthen and organize the opposition to Hincmar. As the organization progressed the Pope was fully advised, and when all seemed ready for the attack on Hincmar, he ordered a council to be held at Troyes in the autumn of 867.²

At this council the papal party was in the majority. It was bent upon advancing the status of the suffragan bishops and diminishing the power of metropolitans. The case of Ebbo was reopened. Rothadus, formerly the defender of the legality of the proceedings against Ebbo, and a principal witness against the clerks, was now the determined enemy of Hincmar, and stultified himself by reversing his former statement of fact in Ebbo's case. The suffragan bishops, bent on freeing themselves from the control of their metropolitans, appealed to the Pope to see to it that no bishop should be deposed without the consent of the Roman See.

Here was the most determined attack that had confronted Hincmar. It was not an invasion but a rebellion. It was an attempt to overthrow the metropolitan constitution as it had been established by Boniface and received for two centuries by the church.

The astute Metropolitan faced the tumult. He turned defeat into victory. By conceding to his enemies that which, if the Pseudo-Isidore was accepted, no longer be-

¹ Ep. Alex.: "Similiter, si hujusmodi personis quoddam scriptoræ quoque modo per metum, aut fraudem, aut vim extortæ fuerunt." The answer of Hincmar is not a full acceptance of the Pseudo-Isidore. It may, however, be construed as admitting its authenticity.

² *Annal. Beruin.*, ad an. 867.

longed to his person or office, he placated them. By a wise concession that cost him nothing, and by a fictitious display of reserve power, he induced the council to agree with him on the question of Ebbo's deposition and the case of the clerks.¹

The findings of the council of 866 had been unsatisfactory to Nicholas; those of the session of 867 were at variance with the views of Charles the Bald. He intercepted the messenger bearing the synodical letter to the Pope. The six archbishops present at Troyes had secured the missive with their seals. Charles broke these and read the letter. He wrote a refutation of the conclusions of the synod, excepting those bearing upon the rights of suffragan bishops, and then sent his letter with that of the synod to Rome.²

While the anti-metropolitan party had been gathering strength in France its final victory was to be deferred by defeat; for the Roman See was involved in controversies with the Greek Church that for the moment claimed the undivided attention of Nicholas. He now needed the support of those primates whose power he had been determined to lower. Hincmar was necessary to the defense of Rome.³

Even before the council convened at Troyes, Nicholas had written⁴ to Hincmar requesting him to bring the other French bishops to the aid of the Petrine See in its struggles with the Greeks. In another letter Nicholas approved the course of Hincmar in the case of Wulfadus.

Unconscious of this turn in affairs, the messenger of the synod bearing his double burden, on which the hopes of Hincmar's antagonists rested, passed the papal courier hurrying northward, and hastened on to Rome. When he arrived Nicholas was dead.⁵

¹ *Annal. Bertin.*, ad an. 867.

² *Annal. Bertin.*, ad an. 867.

³ Hincmar had also outflanked his adversaries, for six months before the synod of Troyes he had sent agents to the Pope. These in the disguise of pilgrims had evaded the enemies that beset them and reached Rome. They had gained the Pope's ear, and the letters mentioned must, at least in part, be ascribed to their influence. Cf. *Annal. Bertin.*, ad an. 867.

⁴ Mansi, xv., 355.

⁵ Nicholas died less than three weeks after the council of Troyes.

Adrian II.,¹ who succeeded Nicholas, approved the decrees of Troyes (February, 868). He attempted to carry out the policy of Nicholas, but he lacked the far-seeing mind, the iron will, and the consummate ability of his great predecessor. The suffragan bishops aided him to the extent of their ability, but their combined efforts did not suffice to advance the papal prerogative beyond the status to which Nicholas had brought it.

The Bonifacian system was, however, doomed. The new decretals gained ground. They seemed suited to the needs of the times. They were in fact an expression of those needs. It therefore was of little consequence if the Pope was unsuccessful in individual controversies, for the forward movement of the Roman supremacy was to be certain and continued.

The change in the ecclesiastical world was accompanied by convulsions in the secular world. The disintegration of the Empire and the destruction of its institutions was still progressing. The old bases of nationality were no longer stable. Their shifting and interchanging disturbed the existent half-built superstructures which they supported. The power of the metropolitans was no longer firmly grounded upon nationality. It lost the support that had sustained it in the conflicts with the Papacy.

We may illustrate the effect of Pseudo-Isidore upon the church organization by one case, that of Hincmar of Laon,² which seemed to combine most of the points in dispute.³ The points advanced by the Bishop of Laon were, in the main, based upon the Pseudo-Isidore. They were briefly:

(1.) Unlimited right of appeal to Rome on the part of the suffragan bishops.

(2.) Opposition to every privilege pertaining to metropoli-

¹ Adrian II., Pope.—*Epistola ap.*, Bouquet, *Rec. Hist.*, Gaules, v. 7. *Epistola et decreta*, Migne, *Patrol. S. Lat.*, 122 pp. 129-1015. *Notitia Historica in Adrianum, II.*, Migne, *Ibid.*

² Migne, *Patrol.*, T. 126; *Hincmari, opuscula et epistola quæ spectant, causam Hincmari Laudunensis, Ibid.*, T. 124. *Epistola Hincmari Laudunensis ad Hincmarum Rhemensem*; *Annal. Bertin.*, ad an. 868.

³ I will not here go into a study of its detail, reserving that for later publication.

tans as superior to their suffragans, excepting such metropolitans who were at the same time patriarchs.¹

(3.) Protest against the interference by metropolitans in the management of their dioceses by suffragans.

(4.) The restitution of an accused bishop to office and goods before he could be summoned before an ecclesiastical court.

(5.) The illegality of every synod not summoned by the Roman See, or at which papal legates were not present.

(6.) The permission to restore a condemned bishop without the concurrence of a full synod.

(7.) Accusations of a bishop to be made more difficult.

(8.) Unconditional acceptance without distinction of all decretals as law.²

Hincmar of Rheims presented an elaborate refutation of Laon's claims. It is of the utmost importance to our enquiry that we should note the authorities to which Hincmar appealed. It is by the very Pseudo-Isidore on which Laon had so confidently depended that Hincmar refutes him.

Hincmar used Pseudo-Isidore to support his arguments because he was unable to reject that body of decretals. He was obliged to accept the new law.

That Laon was condemned, and Adrian compelled to acknowledge the legality of the deposition that followed is of comparatively small importance in our study. The main point is that Laon's case proved the general acceptance of the Pseudo-Isidore by the Gallican church. It had been accepted, and that too in its entirety, by the metropolitans against whom it made the strongest. By this acceptance a new constitution was given to the church, for whatever rights were seemingly reserved to metropolitans their real power was taken from them. With the acceptance of the new decretals a new era began. The only metropolitan in the true sense, the old sense, of the term was henceforth, by the accepted law of the Western Church, to be the Pope.

¹ This preserved the rights of Rome and overthrew those of Rheims.

² Cf. Von Noorden, *Hincmar*, p. 268.

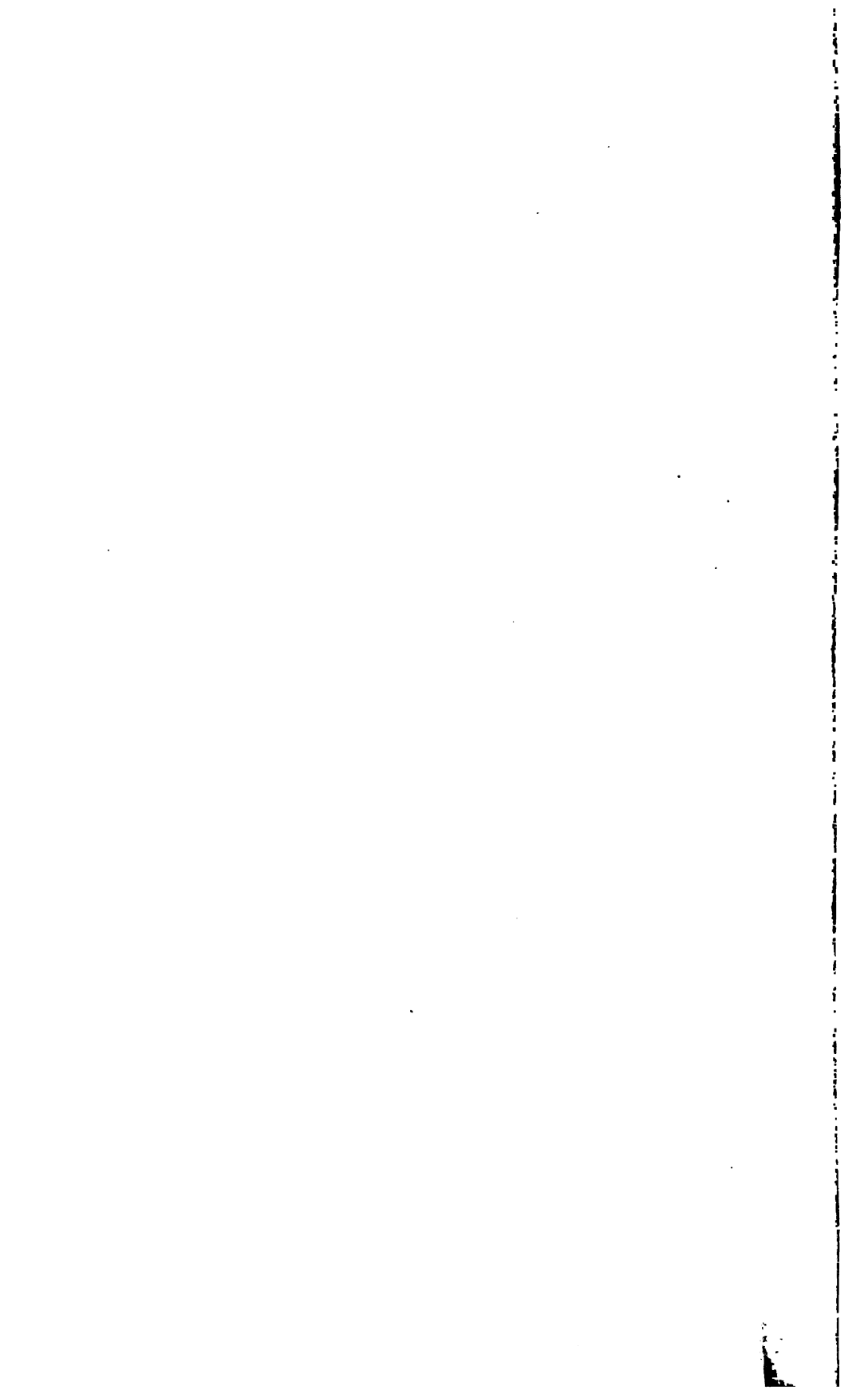
VITA.

Guy Carleton Lee was born in 1866 of North Carolinian parentage. He was educated at Halifax, Nova Scotia, and St. Johns, New Brunswick. In 1894 he received the degree of LL.B. from the University of North Carolina. In 1895 he received the degree of A.B. from Dickinson College and the degree of LL.M. from Dickinson School of Law. All with the highest honors.

In October, 1895, he entered upon a three years' course of graduate study in Johns Hopkins University, taking History as his principal subject, Jurisprudence and Politics as first and second subordinate, respectively.







14 DAY USE
RETURN TO DESK FROM WHICH BORROWED
LOAN DEPT.

RENEWALS ONLY—TEL. NO. 642-3405

This book is due on the last date stamped below, or
on the date to which renewed.

Renewed books are subject to immediate recall.

~~DEC 2 1971~~

Due end of FALL Quarter
subject to recall after

DEC 2 1971

REC'D LD DEC 1 5 70 - 10 AM 27

JUL 8 1971 08

REC'D CO JUN 28 72 - 12 00 PM

REC'D LD JUN 28 72 - 2 PM 45
RECEIVED BY

APR 17 1980

NOV 9 1979

CIRCULATION DEPT.

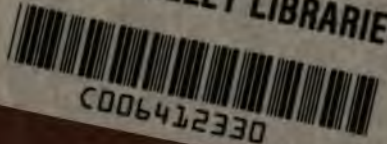
LD21A-60m-3,'70
(N5382s10)476-A-32

General Library
University of California
Berkeley



2.1
9-72

U.C. BERKELEY LIBRARIES



C006412330